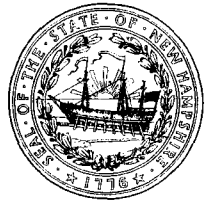




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

September 15, 2006

Malcolm F. Hazeltine, Jr.
PO Box 1013
Wolfeboro, NH 03894

Re: Docket No. AF 05-083 - Administrative Fine by Consent Agreement

Dear Mr. Hazeltine:

Enclosed for your records is a copy of the fully executed and accepted Administrative Fine by Consent Agreement in the above-captioned matter.

On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

Sincerely,

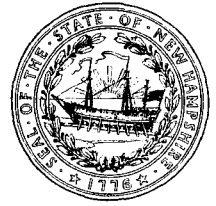
COPY

Michael P. Sclafani,
Legal Assistant

cc: Michael J. Walls, DES Assistant Commissioner
Harry T. Stewart, P.E., Director, DES Water Division
Gretchen R. Hamel, Administrator, DES Legal Unit
Kerry D. Barnsley, Compliance Attorney, DES Legal Unit
Alexis Rastorguyeff, DES WD
Jennifer J. Patterson, NH DOJ
DES Public Information Officer
Town of Wolfeboro Selectmen
Town of Tuftonboro Selectmen
NHASH



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

Malcolm F. Hazeltine, Jr.
P.O. Box 1013
Wolfeboro, NH 03894

Re: Unpermitted Septage Pumping &
Disposal – Tuftonboro/Wolfeboro 2003

**ADMINISTRATIVE FINE
BY CONSENT**

No. AF 05-083

I. INTRODUCTION

This Administrative Fine by Consent is entered into by and between the Department of Environmental Services, Water Division, and Malcolm F. Hazeltine, Jr., pursuant to RSA 485-A:22 and Env-C 603.06. This Administrative Fine by Consent is effective upon signature by all parties.

II. PARTIES

1. The Department of Environmental Services, Water Division ("the Division") is a duly-constituted administrative agency of the State of New Hampshire, having its main office at 29 Hazen Drive, Concord, New Hampshire.
2. Malcolm F. Hazeltine, Jr., is an individual having a mailing address of P.O. Box 1013, Wolfeboro, New Hampshire 03894.

III. BACKGROUND

1. RSA 485-A:4, XVI-a authorizes the Department of Environmental Services ("the DES") to regulate the removal, transportation, and disposal of septage through administration of a permit system. Pursuant to RSA 485-A:6, X-a, the Commissioner of the DES has adopted NH Administrative Rules Env-Ws 1600 ("the Rules") to implement this program.
2. Mr. Hazeltine was the holder of Septage Hauler Permit No. 330 ("the Permit"), which expired on January 31, 2003. The Permit was renewed on October 1, 2003.

IV. ALLEGATIONS

1. On February 13, 2001, the Division issued a renewal of the Permit to Mr. Hazeltine, valid until January 31, 2003.
2. On February 3, 2003, the Division issued a letter to Mr. Hazeltine reminding him that the Permit expired on January 31, 2003, and that he could be fined for hauling septage without a

permit.

3. On June 3, 2003, Mr. Hazeltine admitted to Officer James E. Mullen of the Tuftonboro Police Department that he had dumped septage that day on property in Tuftonboro that was not permitted as a septage facility or site.
4. On September 18, 2003, in a taped conversation between Mr. Hazeltine and former Assistant Attorney General Geoff Ransom, then of the New Hampshire Department of Justice, Mr. Hazeltine admitted to similar dumping "maybe 6 or 7 times" previously.
5. Between May 19, 2003 and September 12, 2003, Mr. Hazeltine dumped 12 loads of septage at the Town of Wolfeboro Water Pollution Abatement Facility, pumped from 36 septic tanks, without a valid septage hauler's permit.


V. ADMINISTRATIVE FINES, PAYMENT, WAIVER OF HEARING

1. For failing to obtain a hauler's permit prior to engaging in hauling septage as required by Env-Ws 1604.01(a), Env-C 603.06(c) specifies a fine of \$1,000 per load, for a total of \$20,000 for the 12 loads dumped at the Wolfeboro Water Pollution Abatement Facility and the 8 loads Mr. Hazeltine has admitted to dumping at the non-permitted site in Tuftonboro.
2. For dumping septage loads at a location not approved by the department or EPA, Env-C 603.06(h) specifies a fine of \$2,000 per load, for a total of \$16,000 for the 8 loads Mr. Hazeltine has admitted to dumping at the non-permitted site in Tuftonboro.
3. Of the total fine in the amount of \$36,000, the Division agrees to waive \$14,400 of the fine, and suspend \$21,600 contingent upon Mr. Hazeltine completing a Supplemental Environmental Project ("SEP").
4. Mr. Hazeltine agrees to perform a SEP as follows:
 - a) The SEP shall consist of three educational videos, each individually targeted to homeowners, municipal officials and septage haulers, outlining the role of each party in the overall septage disposal solution for New Hampshire. Each video shall be 10 to 15 minutes in length, contain motion and still segments, and be professionally produced by the University of New Hampshire Video Services (UNHVS). A master DVD of each video shall be provided to the Division, along with 300 DVD copies of the homeowner version, 50 DVD copies of the municipal version and 150 DVD copies of the hauler version.
 - b) Within **15 days** of the date of execution of this Agreement Mr. Hazeltine shall contract with UNHVS to produce the videos, and he will comply with the following payment schedule:
 - i. \$4,200 shall be paid to UNHVS at the execution of the contract,
 - ii. \$4,200 shall be paid to UNHVS at the completion of all field production,
 - iii. \$4,144 shall be paid to UNHVS upon delivery of videos.

- c) Mr. Hazeltine shall assure, to the extent that it is within his control, that the SEP will be completed by **April 30, 2007**.
 - d) Mr. Hazeltine shall provide up to a total of two 8-hour days of services of his septage-hauling vehicle and of himself to UNHVS to assist in the production of the videos.
 - e) To assist Mr. Hazeltine in the SEP, the Division will coordinate with UNHVS to develop a script and production plan for the videos.
 - f) If Mr. Hazeltine fails to enter into the contract with UNHVS, provide his services to UNHVS, make timely payments, or complete the SEP, the Division may request an administrative hearing on these issues and may request imposition of the suspended amounts of the administrative fines.
5. Any payments due or that become due under paragraph #4, **other than payments to UNHVS**, shall be paid by certified check made payable to "Treasurer, State of New Hampshire" and mailed to:
- DES Legal Unit
Attn: Michael Sclafani, Legal Assistant
PO Box 95
Concord, NH 03302-0095
6. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.
7. By executing this Administrative Fine by Consent, Mr. Hazeltine waives his right to a hearing on or any appeal of the administrative fines identified in this Agreement, and agrees that this Administrative Fine by Consent may be entered into and enforced by a court of competent jurisdiction.
8. The effective date of this Administrative Fine by Consent will be the date on which it is signed by Mr. Hazeltine, the Director of the Water Division, and the Commissioner of the DES.
9. No failure by the DES to enforce any provision of this Administrative Fine by Consent after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this agreement on any further breach or default.

WHEREFORE, the parties voluntarily accept the terms of this Agreement.


COPY


Malcolm E. Hazeltine, Jr.

9/13/06
Date

Department of Environmental Services

COPY


Harry T. Stewart, P.E., Director
Water Division

9/13/06
Date

COPY


Michael P. Nolin, Commissioner

09 14 06
Date

cc: Gretchen Hamel, Legal Unit Administrator
Selectmen, Town of Tuftonboro
Selectmen, Town of Wolfeboro
ec: Public Information Officer, DES PIP Office
NHDOJ, EPB
NHASH